

**REMARKS**

In the non-final Office Action, the Examiner rejects claims 1, 2, 4-11, and 16 under 35 U.S.C. § 103(a) as unpatentable over STUART et al. (U.S. Patent No. 6,661,431) in view of MESSER (U.S. Patent No. 7,020,622); rejects claim 12 under 35 U.S.C. § 103(a) as unpatentable over STUART et al. in view of MESSER, and further in view of SRINIVASAN (U.S. Patent Application Publication No. 2002/0042738); rejects claims 13, 14, 17-21, 23-30, and 33-38 under 35 U.S.C. § 103(a) as unpatentable over STUART et al. in view of MESSER, further in view of SRINIVASAN, and still further in view of MASON et al. (U.S. Patent Application Publication No. 2002/0161648); and rejects claims 3, 15, 22, 31, 32, and 39-43 under 35 U.S.C. § 103(a) as unpatentable over STUART et al. in view of MESSER, further in view of SRINIVASAN, still further in view of MASON et al., and yet still further in view of ISHIKAWA (U.S. Patent Application Publication No. 2001/0037314). Applicants respectfully traverse these rejections.

By way of the present amendment, Applicants amend claims 1-15, 18-22, 24-28, 30, 31, 36, 37, and 40 to improve form and not to overcome the references of record. No new matter has been added by way of the present amendment. Claims 1-43 remain pending.

**Rejection under 35 U.S.C. § 103(a) based on STUART et al. and MESSER**

Claims 1, 2, 4-11, and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over STUART et al. in view of MESSER. Applicants respectfully traverse this rejection.

Independent claim 1, as amended, is directed to a method that is performed by a server. The method includes collecting, by a processor of the server, information associated with a group of users visiting a web site; identifying, by the processor, non-malicious users visiting the web site from the group of users visiting the web site based on the collected information; and determining, by the processor, an occurrence of spamming on the web site based at least in part on a behavior of the identified non-malicious users. STUART et al. and MESSER, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, STUART et al. and MESSER do not disclose or suggest determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified non-malicious users visiting the web site. The Examiner relies on elements 12 and 14 in Fig. 1 and col. 7, line 5 to col. 8, line 66, of STUART et al. for allegedly disclosing "determining at least in part on a behavior of the identified non-malicious users" (Office Action, p. 3). The Examiner admits that STUART et al. does not disclose "an occurrence of spamming on a web site based" and relies on col. 3, lines 9-14, and col. 4, lines 40-42, of MESSER for allegedly disclosing this portion of the above feature of claim 1 (Office Action, p. 3). Applicants object to the Examiner piecemeal analysis of the above feature of claim 1.

Claim 1 does not recite "determining at least in part on a behavior of the identified non-malicious users" and "an occurrence of spamming on a web site based," as the Examiner alleges. Instead, claim 1, as amended, specifically recites determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified non-malicious users visiting the web site. Rather than addressing this

specifically-recited feature of claim 1, the Examiner impermissibly breaks the feature down into nonsensical portions and relies on unrelated sections of two different references for allegedly disclosing these nonsensical portions. Such attempts at reconstructing Applicants' claims are impermissible and insufficient for establishing a prima facie case of obviousness. Nevertheless, Applicants submit that STUART et al. and MESSER, whether taken alone or in any reasonable combination, do not disclose or suggest determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified non-malicious users visiting the web site, as recited in claim 1.

Element 12 in Fig. 1 of STUART et al. corresponds to a step of identifying and collecting information pertaining to entities. STUART et al. discloses that an entity is any object of interest, such as a visitor to a web site or a web page (see, for example, col. 7, lines 20-24). STUART et al. does not disclose that the entities, for which information is collected, correspond to non-malicious users visiting a web site. In fact, STUART et al. does not distinguish between malicious users visiting a web site and non-malicious users visiting the web site. Thus, STUART et al. cannot disclose or suggest determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified non-malicious users visiting the web site, as recited in claim 1. Moreover, STUART et al. does not, as the Examiner admits, disclose determining an occurrence of spamming on a web site. Thus, STUART et al. cannot reasonably be relied on for disclosing the above feature of claim 1.

Element 14 in Fig. 1 of STUART et al. corresponds to a step of collecting navigation information, which STUART et al. discloses includes data on each visitor's

access to each web page (see, for example, col. 7, lines 43-49). STUART et al. does not distinguish between malicious users visiting a web site and non-malicious users visiting the web site. Instead, STUART et al. specifically discloses collecting data on each visitor's access of each web page. Thus, STUART et al. cannot disclose or suggest determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified non-malicious users visiting the web site, as recited in claim 1. Moreover, STUART et al. does not, as the Examiner admits, disclose determining an occurrence of spamming on a web site. Thus, STUART et al. cannot reasonably be relied on for disclosing the above feature of claim 1.

At col. 7, line 5 to col. 8, line 66, which describes Fig. 1, STUART et al. discloses a method 10 that includes collecting information pertaining to selected entities (step 12); collecting web site navigation information (which includes data on each visitor's access to each web page) (step 14); defining relationships between entities (e.g., defining a relationship between a visitor and a web page when the visitor requests or accesses the web page) (step 16); aggregating relationship information to articulate a particular behavior (step 18); presenting behavior in a variety of formats, such as by identifying behavior for an entity (step 20), comparing behavior between entities (step 22), and comparing behavior of an entity in different time periods (step 24); and mapping the behavior on a site display (step 26). STUART et al. does not distinguish between malicious users visiting a web site and non-malicious users visiting the web site. Instead, STUART et al. specifically discloses collecting data on each visitor's access of each web page. Thus, STUART et al. cannot disclose or suggest determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified

non-malicious users visiting the web site, as recited in claim 1. Moreover, STUART et al. does not, as the Examiner admits, disclose determining an occurrence of spamming on a web site. Thus, STUART et al. cannot reasonably be relied on for disclosing the above feature of claim 1.

At col. 3, lines 9-18, MESSER discloses:

The system further and optionally includes fraud detection processes which detect Javascript on the affiliate's page that automatically triggers and loops the web page linking codes, artificially creating multiple "clicks" on the promotion.

Other objects, features, and advantages of the invention shall become apparent as the description thereof proceeds when considered in connection with the accompanying illustrative drawings, detailed description of the specific embodiments, and the appended claims.

This section of MESSER does not disclose or suggest determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified non-malicious users visiting the web site, as recited in claim 1. In fact, this section of MESSER merely discloses the detection of "Javascript on the affiliate's page that automatically triggers and loops the web page linking codes, artificially creating multiple 'clicks' on the promotion." The detection of JavaScript on a web page cannot reasonably be construed as corresponding to the behavior of identified non-malicious users visiting a web site.

At col. 4, lines 40-42, MESSER discloses:

As discussed below, the Clearinghouse is further equipped to deter fraud and other non-productive activity.

This section of MESSER does not disclose or suggest determining, by the processor, an occurrence of spamming on a web site based at least in part on a behavior of identified

non-malicious users visiting the web site, as recited in claim 1. MESSER discloses the detection of fraud through the detection of "Javascript on the affiliate's page that automatically triggers and loops the web page linking codes, artificially creating multiple 'clicks' on the promotion" (col. 3, lines 9-13). The detection of JavaScript on a web page cannot reasonably be construed as corresponding to the behavior of identified non-malicious users visiting a web site.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over STUART et al. and MESSER, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 103(a) based on STUART et al. and MESSER be reconsidered and withdrawn.

Claims 2 and 4-11 depend from claim 1. Therefore, these claims are patentable over STUART et al. and MESSER, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claims 2 and 4-11 under 35 U.S.C. § 103(a) based on STUART et al. and MESSER be reconsidered and withdrawn. Moreover, these claims are patentable over STUART et al. and MESSER for reasons of their own.

For example, claim 5 recites that the tracking activities of a group of users visiting the web site includes determining a type of browser used by the users in the group of users. The Examiner appears to admit that STUART et al. does not disclose this feature and relies on col. 2, lines 15-16, of MESSER for allegedly disclosing "The first approach tracks USER visits using cookies to determine Web path" (Office Action, pp. 4-5).

Applicants submit that the Examiner's allegation, regardless of its veracity, does not address the above feature of claim 5.

Claim 5 does not recite tracking user visits using cookies. Instead, claim 5 specifically recites that the tracking activities of a group of users visiting the web site includes determining a type of browser used by the users in the group of users. The Examiner's allegation does not address this feature of claim 5. Moreover, one skilled in the art at the time of Applicants' invention would readily appreciate that tracking user visits using cookies is not equivalent to tracking activities of a group of users visiting the web site, where the tracking includes determining a type of browser used by the users in the group of users. Cookies do not typically include information identifying the type of browser used by a user. In addition, the Examiner provides no explanation as to why MESSER's cookies would include this information.

At col. 2, lines 15-18, MESSER discloses:

The first approach tracks USER visits using cookies to determine Web path; alternatively, incentive forms that use a promotional contest to gain voluntary input of data can be applied to collect USER/site data.

This section of MESSER does not disclose or suggest that the tracking activities of a group of users visiting the web site includes determining a type of browser used by the users in the group of users, as recited in claim 5. This section of MESSER does not disclose or suggest that the cookies include information identifying a type of browser used by a user. Even assuming, for the sake of argument, that MESSER's cookie includes information identifying a type of browser used by a user (a point with which Applicants do not agree for at least the reasons given above), Applicants submit that MESSER does not disclose or suggest extracting browser type information from a cookie

and using the extracted browser type information to track activities of activities of a group of users visiting the web site, as would be required of MESSER based on the Examiner's interpretation of claim 5.

For at least these additional reasons, Applicants submit that claim 5 is patentable over STUART et al. and MESSER, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 5 under 35 U.S.C. § 103(a) based on STUART et al. and MESSER be reconsidered and withdrawn.

Independent claim 16 recites features similar to (yet possibly of different scope than) features described above with respect to claim 1. Therefore, Applicants submit that claim 16 is patentable over STUART et al. and MESSER, whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claim 16 under 35 U.S.C. § 103(a) based on STUART et al. and MESSER be reconsidered and withdrawn.

***Rejection under 35 U.S.C. § 103(a) based on  
STUART et al., MESSER, and SRINIVASAN et al.***

Claim 12 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over STUART et al. in view of MESSER, and further in view of SRINIVASAN et al. Applicants respectfully traverse this rejection.

Claim 12 depends from claim 1. While not acquiescing in the rejection of claim 12, Applicants submit that the disclosure of SRINIVASAN et al. does not remedy the deficiencies in the disclosures of STUART et al. and MESSER set forth above with respect to claim 1. Therefore, Applicants submit that claim 12 is patentable over



STUART et al., MESSER, and SRINIVASAN et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claim 12 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, and SRINIVASAN et al. be reconsidered and withdrawn. Moreover, this claim is patentable over STUART et al., MESSER, and SRINIVASAN et al. for reasons of its own.

Claim 12 recites that the web site includes at least one advertisement, and where the determining an occurrence of spamming includes determining a click rate of the at least one advertisement for the identified non-malicious users, and determining that the at least one advertisement has been spammed when the click rate of users in the group of users visiting the web site exceeds the determined click rate for the identified non-malicious users. STUART et al., MESSER, and SRINIVASAN et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, STUART et al., MESSER, and SRINIVASAN et al. do not disclose or suggest determining that the at least one advertisement has been spammed when the click rate of users in the group of users visiting the web site exceeds the determined click rate for the identified non-malicious users. The Examiner admits that STUART et al. and MESSER do not disclose this feature and relies on SRINIVASAN et al.'s minimum effectiveness threshold in Table 1 as allegedly corresponding to this feature of claim 12 (Office Action, pp. 8-9). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al.

Table 1 of SRINIVASAN et al. includes the results of a first iteration of an experiment that was conducted (paragraph 0116). While this table of SRINIVASAN et al. includes a click rate percentage for different advertisements, this table in no way discloses or suggests determining that the at least one advertisement has been spammed when the click rate of users in the group of users visiting the web site exceeds the determined click rate for the identified non-malicious users, as recited in claim 12. In fact, the entire SRINIVASAN et al. disclosure does not relate to determining spamming of advertisements.

If this rejection is maintained, Applicants respectfully request that the Examiner explain how the above section of SRINIVASAN can reasonably be construed as disclosing determining that the at least one advertisement has been spammed when the click rate of users in the group of users visiting the web site exceeds the determined click rate for the identified non-malicious users, as recited in claim 12.

For at least these additional reasons, Applicants submit that claim 12 is patentable over STUART et al., MESSER, and SRINIVASAN et al., whether taken alone or in any reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 12 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, and SRINIVASAN et al. be reconsidered and withdrawn.

***Rejection under 35 U.S.C. § 103(a) based on  
STUART et al., MESSER, SRINIVASAN et al., and MASON et al.***

Claims 13, 14, 17-21, 23-30, and 33-38 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over STUART et al. in view of MESSER, further in view of

SRINIVASAN et al., and still further in view of MASON et al. Applicants respectfully traverse this rejection.

Claim 13 depends from claim 12. While not acquiescing in the rejection of claim 13, Applicants submit that the disclosure of MASON et al. does not remedy the deficiencies in the disclosures of STUART et al., MESSER, and SRINIVASAN et al. set forth above with respect to claim 12. Therefore, Applicants submit that claim 13 is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 12. Accordingly, Applicants respectfully request that the rejection of claim 13 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Claim 14 depends from claim 1. While not acquiescing in the rejection of claim 14, Applicants submit that the disclosures of SRINIVASAN et al. and MASON et al. do not remedy the deficiencies in the disclosures of STUART et al. and MESSER set forth above with respect to claim 1. Therefore, Applicants submit that claim 14 is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claim 14 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn. Moreover, this claim is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al. for reasons of its own.

Claim 14 recites that the web site includes at least one advertisement. Claim 14 further recites that the identifying non-malicious users visiting a web site includes determining a percentage of users, in the group of users visiting the web site in a time period, that are non-malicious users, and where the determining an occurrence of spamming includes estimating a percentage of non-malicious users selecting the at least one advertisement during the time period to be approximately the percentage of non-malicious users visiting the web site during the time period, and determining that the at least one advertisement has been spammed when an actual percentage of non-malicious users selecting the at least one advertisement during the time period is lower than the estimated percentage of non-malicious users selecting the at least one advertisement during the time period. STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, STUART et al., MESSER, SRINIVASAN et al., and MASON et al. do not disclose or suggest determining that the at least one advertisement has been spammed when an actual percentage of non-malicious users selecting the at least one advertisement during the time period is lower than the estimated percentage of non-malicious users selecting the at least one advertisement during the time period. The Examiner appears to admit that STUART et al. and MESSER do not disclose this feature and relies on Table 1 of SRINIVASAN et al. and paragraph 0029 of MASON et al. for allegedly disclosing the above feature of claim 14 (Office Action, pp. 10-11). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al. and MASON et al.

Table 1 of SRINIVASAN et al. includes the results of a first iteration of an experiment that was conducted (paragraph 0116). The table stores information identifying an advertisement, the prior distribution of the advertisement, the click rate (as a percentage), and the posterior distribution of the advertisement. This table of SRINIVASAN et al. in no way relates to determining that the at least one advertisement has been spammed when an actual percentage of non-malicious users selecting the at least one advertisement during the time period is lower than the estimated percentage of non-malicious users selecting the at least one advertisement during the time period, as recited in claim 14. In fact, the entire SRINIVASAN et al. disclosure does not relate to determining spamming of advertisements.

At paragraph 0029, MASON et al. discloses:

With reference to the two columns on the left side of the drawing, a statistical analysis package monitors and reports the total amount of viewer traffic that an online newspaper website receives. The present invention provides the ability to monitor the success of particular advertising campaign in real time and facilitates the modification of an advertising campaign either automatically or with user intervention. For example, an advertising campaign can start with three different original ads which are reconfigured and then placed on a wide number of websites. By monitoring the number of click-throughs on each of the ads, a more successful derivative advertisement link, i.e., one which receives a greater number of click-throughs, can be substituted for the less successful banners. The computing devices which are used to run and monitor the methods of the present invention can be automatically programmed to substitute a more successful banner for a less successful banner according to one or more pre-determined criteria, e.g., if the number of click-throughs is different by a pre-determined percentage. For example, if the derivative advertisement links from one original ad are receiving 20% more click-throughs than the derivative advertisement links created from a second original ad, then some or all of the placements of the second original ad can be automatically replaced by the more successful ad. Alternatively, other criteria and parameters used in tailoring an advertising campaign can also be adjusted during the campaign automatically or using user intervention. For example, if it is found that a soup advertisement is

receiving more click-throughs in the late afternoon and ads for a financial services firm are receiving more click-throughs early in the morning, then the placement of those particular ads can be modified in order to maximize the number of click-throughs for the advertisers. The present invention provides statistics on each derivative advertisement link, each URL and can combine and provide cumulative statistics. The statistics provided preferably comprise at least the number of hits per image per online newspaper website and the number of click-throughs per image per newspaper website

(emphasis added). This section of MASON et al. in no way discloses or suggests determining that the at least one advertisement has been spammed when an actual percentage of non-malicious users selecting the at least one advertisement during the time period is lower than the estimated percentage of non-malicious users selecting the at least one advertisement during the time period, as recited in claim 14. In fact, this section of MASON et al. does not even relate to determining whether an advertisement has been spammed.

Further with respect to the above section of MASON et al., the Examiner alleges (Office Action, p. 11):

if it is found that a soup advertisement is receiving more click-throughs in the late afternoon and ads for a financial services firm are receiving more click-throughs early in the morning, and then the placement of those particular ads can be modified in order to maximize the number of click-throughs for the advertisers.

Applicants submit that this allegation by the Examiner, regarding alleged teachings of MASON et al., does not even relate to the above feature of claim 14. Claim 14 does not recite modifying the placement of advertisements in order to maximize the number of click-throughs received. Instead, claim 14 recites, *inter alia*, determining that the at least one advertisement has been spammed when an actual percentage of non-malicious users selecting the at least one advertisement during the time period is lower than the estimated

percentage of non-malicious users selecting the at least one advertisement during the time period. The Examiner's allegation does not address this feature.

For at least these additional reasons, Applicants submit that claim 14 is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 14 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Independent claim 17 is directed to a computer-readable memory device containing instructions for controlling at least one processor to perform a method for detecting click spamming of an advertisement on a server. The method includes determining a number of non-malicious users accessing the server; determining a percentage of the non-malicious users clicking the advertisement when the advertisement is provided to the non-malicious users; and determining whether the advertisement has been click spammed based at least in part on the determined percentage. STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, STUART et al., MESSER, SRINIVASAN et al., and MASON et al. do not disclose or suggest determining whether the advertisement has been click spammed based at least in part on the determined percentage of non-malicious users clicking the advertisement when the advertisement is provided to the non-malicious users. The Examiner appears to admit that STUART et al. and MESSER do not disclose this feature and relies on paragraph 0112 and Table 1 of SRINIVASAN et al. and on paragraph 0029 of MASON et al. as allegedly disclosing the above feature of claim 17

(Office Action, pp. 12-13). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al. and MASON et al.

At paragraph 0112, SRINIVASAN et al. discloses:

In one embodiment, the inventive system is programmed to automatically delete a particularly ineffective advertisement. In this case, if the measured effectiveness of an advertisement does not meet a minimum threshold at 470, it is deleted from the advertisements to be shown at step 475.

This section of SRINIVASAN et al. does not relate to determining whether an advertisement has been click spammed. Thus, this section of SRINIVASAN et al. cannot disclose or suggest determining whether the advertisement has been click spammed based at least in part on the determined percentage of non-malicious users clicking the advertisement when the advertisement is provided to the non-malicious users, as recited in claim 17.

Table 1 of SRINIVASAN et al. includes the results of a first iteration of an experiment that was conducted (paragraph 0116). This table of SRINIVASAN et al. in no way discloses or suggests determining whether the advertisement has been click spammed based at least in part on the determined percentage of non-malicious users clicking the advertisement when the advertisement is provided to the non-malicious users, as recited in claim 17. In fact, the entire SRINIVASAN et al. disclosure does not relate to determining whether an advertisement has been click spammed.

Paragraph 0029 of MASON et al. is reproduced above. This section of MASON et al. discloses, *inter alia*, that "[t]he computing devices which are used to run and monitor the methods of the present invention can be automatically programmed to substitute a more successful banner for a less successful banner according to one or more



pre-determined criteria, e.g., if the number of click-throughs is different by a pre-determined percentage that computing devices can substitute a more successful advertising banner for a less successful advertising banner according to one or more predetermined criteria, such as the number of click-throughs." This section of MASON et al. does not disclose or suggest determining whether the advertisement has been click spammed based at least in part on the determined percentage of non-malicious users clicking the advertisement when the advertisement is provided to the non-malicious users, as recited in claim 17. In fact, this section of MASON et al. in no way relates to determining whether an advertisement has been click spammed.

For at least the foregoing reasons, Applicants submit that claim 17 is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 17 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Independent claim 18 recites features similar to (yet possibly of different scope than) features described above with respect to claim 17. Therefore, Applicants submit that claim 18 is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 17. Applicants respectfully request that the rejection of claim 18 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Independent claim 19, as amended, is directed to a method performed by a server. The method includes identifying, by a processor of the server, a group of non-malicious

users visiting a web site; determining, by the processor, a click rate of an item associated with the web site for the group of non-malicious users; and determining, by the processor, whether the item has been click spammed based at least in part on the determined click rate for the non-malicious users. STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, STUART et al., MESSER, SRINIVASAN et al., and MASON et al. do not disclose or suggest determining, by the processor, whether the item has been click spammed based at least in part on the determined click rate for the non-malicious users. The Examiner appears to admit that STUART et al. and MESSER do not disclose this feature and relies on paragraph 0114 and Table 1 of SRINIVASAN et al. as allegedly disclosing the above feature of claim 17 (Office Action, p. 14). Applicants respectfully disagree with the Examiner's interpretation of SRINIVASAN et al.

At paragraph 0114, SRINIVASAN et al. discloses:

Consider a specific example of an optimal advertisement calculated by the inventive system. In this example, the experiment is being run for a set of 5 ads for the first time. Therefore, at step 410, the system sets up for a uniform distribution of the advertisements. It is estimated in this example that the website receives 100,000 visitors a day. In this case, the five ads-- Ad A, Ad B, Ad C, Ad D and Ad E are input into the system. The objective in this example is to maximize the click-through rate, and the minimum effectiveness threshold is 1%.

This section of SRINIVASAN et al. does not relate to determining whether an advertisement has been click spammed. Thus, this section of SRINIVASAN et al. cannot disclose or suggest determining, by the processor, whether the item has been click

spammed based at least in part on the determined click rate for the non-malicious users, as recited in claim 19.

Table 1 of SRINIVASAN et al. includes the results of a first iteration of an experiment that was conducted (paragraph 0116). This table of SRINIVASAN et al. in no way discloses or suggests determining, by the processor, whether the item has been click spammed based at least in part on the determined click rate for the non-malicious users, as recited in claim 19. In fact, the entire SRINIVASAN et al. disclosure does not relate to determining whether an advertisement has been click spammed.

If this rejection is maintained, Applicants respectfully request that the Examiner explain how the above sections of SRINIVASAN et al. can reasonably be construed as disclosing determining, by the processor, whether the item has been click spammed based at least in part on the determined click rate for the non-malicious users, as recited in claim 19.

The disclosure of MASON et al. does not remedy the above deficiencies in the disclosures of STUART et al., MESSER, and SRINIVASAN et al.

For at least the foregoing reasons, Applicants submit that claim 19 is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 19 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Claims 20, 21, and 23-28 depend from claim 19. Therefore, these claims are patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given

above with respect to claim 19. Accordingly, Applicants respectfully request that the rejection of claims 20, 21, and 23-28 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Independent claims 29 and 30 recite features similar to (yet possibly of different scope than) features described above with respect to claim 19. Therefore, Applicants submit that claims 29 and 30 are patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 19. Applicants respectfully request that the rejection of claims 29 and 30 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Claim 33 depends from claim 16. Without acquiescing in the rejection of claim 33, Applicants submit that the disclosures of SRINIVASAN et al. and MASON et al. do not remedy the deficiencies in the disclosures of STUART et al. and MESSER set forth above with respect to claim 16. Therefore, this claim is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 16. Accordingly, Applicants respectfully request that the rejection of claim 33 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Claims 34 and 35 depend from claim 17. Therefore, these claims are patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect

to claim 17. Accordingly, Applicants respectfully request that the rejection of claims 34 and 35 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Claims 36 and 37 depend from claim 18. Therefore, these claims are patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 18. Accordingly, Applicants respectfully request that the rejection of claims 36 and 37 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

Claim 38 depends from claim 29. Therefore, this claim is patentable over STUART et al., MESSER, SRINIVASAN et al., and MASON et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 29. Accordingly, Applicants respectfully request that the rejection of claim 38 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., and MASON et al. be reconsidered and withdrawn.

***Rejection under 35 U.S.C. § 103(a) based on  
STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA***

Claims 3, 15, 22, 31, 32, and 39-43 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over STUART et al. in view of MESSER, further in view of SRINIVASAN et al., still further in view of MASON et al., and yet still further in view of ISHIKAWA. Applicants respectfully traverse this rejection.

Claims 3 and 15 depend from claim 1. While not acquiescing in the rejection of claims 3 and 15, Applicants submit that the disclosures of SRINIVASAN et al., MASON

et al., and ISHIKAWA do not remedy the deficiencies in the disclosures of STUART et al. and MESSER set forth above with respect to claim 1. Therefore, these claims are patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claims 3 and 15 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn. Moreover, these claims are patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA for reasons of their own.

For example, claim 3 recites that tracking activities of the group of users visiting the web site includes determining whether the users in the group of users load images. The Examiner appears to admit that STUART et al., MESSER, SRINIVASAN et al., MASON et al. do not disclose this feature and relies on paragraph 0015 of ISHIKAWA for allegedly disclosing the above feature of claim 3 (Office Action, p. 26). Applicants respectfully disagree with the Examiner's interpretation of ISHIKAWA.

At the outset, Applicants submit that the rejection of claim 3 is improper. Claim 3 depends from claim 2. The Examiner rejects claim 2 under 35 U.S.C. § 103(a) based on STUART et al. and MESSER. The Examiner rejects claim 3, however, under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA. Yet, the Examiner does not rely on SRINIVASAN et al. or MASON et al. in the rejection of claim 3. Thus, the rejection of claim 3 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA is improper.

Nevertheless, at paragraph 0015, ISHIKAWA discloses:

When an advertising link is loaded onto a user's computer, a confirmation code is generated. If the user chooses to access the advertised materials, for example, the web page being advertised, the user clicks on the advertising link and is transmitted to the merchant's web site. As the user is transmitted to the merchant's web page, current user information generated in accordance with standard transmission protocols and the confirmation code are also transmitted.

This section of ISHIKAWA does not relate to tracking activities of a group of users visiting a web site. ISHIKAWA's disclosure of an advertising link being loaded onto a user's computer is not equivalent to tracking activities of a group of users visiting a web site that includes determining whether the users in the group of users load images, as recited in claim 3. Moreover, the Examiner provides no explanation as to why one skilled in the art would have construed ISHIKAWA's disclosure of an advertising link being loaded onto a user's computer is not equivalent to tracking activities of a group of users visiting a web site that includes determining whether the users in the group of users load images. Thus, the Examiner has not established a *prima facie* case of obviousness with respect to claim 3.

For at least these additional reasons, Applicants submit that claim 3 is patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 3 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn.

Claim 22 depends from claim 19. While not acquiescing in the rejection of claim 22, Applicants submit that the disclosure of ISHIKAWA does not remedy the

deficiencies in the disclosures of STUART et al., MESSER, SRINIVASAN et al., and MASON et al. set forth above with respect to claim 19. Therefore, this claim is patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 19. Accordingly, Applicants respectfully request that the rejection of claim 22 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn.

Independent claim 31, as amended, is directed to a method performed by a server. The method includes tracking, by a processor of the server, activities of users visiting a web site, where the tracking includes determining, for each user, at least one of whether the user loads images, an age of a cookie associated with each user, whether the user has javascript turned on, a type of browser used by the user, or an interval at which the user visits the web site; and identifying, by the processor, non-malicious users from the users visiting the web site based at least in part on the tracked activities. STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA do not disclose or suggest identifying, by the processor, non-malicious users from the users visiting the web site based at least in part on tracking activities of users, where the tracking activities includes determining, for each user, at least one of whether the user loads images, an age of a cookie associated with each user, whether the user has javascript turned on, a type of browser used by the user, or an interval at which the user



visits the web site. This feature is similar to (yet possibly of different scope than) features described above with respect to claims 1, 3, and 5. Thus, Applicants submit that claim 31 is patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claims 1, 3, and 5.

For at least these reasons claim 31 is patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 31 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn.

Claim 32 depends from claim 16. While not acquiescing in the rejection of claim 32, Applicants submit that the disclosures of SRINIVASAN et al., MASON et al., and ISHIKAWA do not remedy the deficiencies in the disclosures of STUART et al. and MESSER set forth above with respect to claim 16. Therefore, this claim is patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 16. Accordingly, Applicants respectfully request that the rejection of claim 32 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn.

Claim 39 depends from claim 29. While not acquiescing in the rejection of claim 39, Applicants submit that the disclosure of ISHIKAWA does not remedy the deficiencies in the disclosures of STUART et al., MESSER, SRINIVASAN et al., and MASON et al. set forth above with respect to claim 29. Therefore, this claim is

patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 29. Accordingly, Applicants respectfully request that the rejection of claim 39 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn.

Claims 40 and 41 depend from claim 30. While not acquiescing in the rejection of claims 40 and 41, Applicants submit that the disclosure of ISHIKAWA does not remedy the deficiencies in the disclosures of STUART et al., MESSER, SRINIVASAN et al., and MASON et al. set forth above with respect to claim 30. Therefore, these claims are patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 30. Accordingly, Applicants respectfully request that the rejection of claims 40 and 41 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn.

Claims 42 and 43 depend from claim 31. Therefore, these claims are patentable over STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 31. Accordingly, Applicants respectfully request that the rejection of claims 42 and 43 under 35 U.S.C. § 103(a) based on STUART et al., MESSER, SRINIVASAN et al., MASON et al., and ISHIKAWA be reconsidered and withdrawn.

**Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such assertions (e.g., whether a reference constitutes prior art, reasons to modify a reference and/or to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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